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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,392	09/25/2001	Richard C. Fuisz	56915-038	5505

7590 08/10/2004  
MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

CHEN, TE Y

ART UNIT PAPER NUMBER

2171

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/961,392	<b>Applicant(s)</b> FUISZ, RICHARD C.	
	<b>Examiner</b> Susan Y Chen	<b>Art Unit</b> 2171	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 12-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Status***

This office action is responsive to the amendment filed on Sept. 25, 2001, the claimed provisional Patent Application priority has been noted.

Claim 1-11 are elected by applicant for continue examination without traverse.

### ***Specification***

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant cooperation is requested in correcting any errors of which applicants may become aware in the specification.

### ***Drawings***

Applicant has filed informal drawings that are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,415,307 issued to Jones et al. (hereinafter referred as Jones).

As to claim 1, Jones discloses a visual image marketing method [e.g., Abstract; col. 1, lines 12 - 20, lines 25 - 45], comprising the steps of: recording object location, time information and marketing information [e.g., Fig. 2]; receiving a product input from a viewer [e.g., the Find: String Entry Field, Fig. 2]; retrieving said marketing information based at least in part on said object location; and displaying said marketing information [e.g., using the Find (company Name in any sector), result Displayed in the lower field, Fig. 5].

As to claim 2, Jones discloses a system for providing marketing information comprising: a first transmitter [e.g., 10, Fig. 1] configured to transmit to one or more viewers a sequence of images, wherein at least one item having associated marketing information is included in a portion of the sequence of images [e.g., Fig.(s), 2-7]; a receiver configured to receive data from one of the viewers, wherein the data at least partially identifies the item [e.g., the personal computer, col. 6, lines 2 - 20]; a database configured to store and provide the associated marketing information about the identified item [e.g., the database storing the representation of each published

document, col. 8, lines 60-63, col. 14, line 62 – col. 15, line 45], and a second transmitter configured to transmit to the at least one viewer the associated marketing information [e.g., the internet at col. 5, lines 50-52].

As to claim 3, Jones discloses the system according to claim 2, wherein: the first transmitter is further configured to transmit to the viewers information relating to the spatial location of the item within the portion of the sequence of images, wherein the sequence of images and the spatial location information are transmitted substantially simultaneously [e.g., col. 5, lines 46 – 61, col. 15, lines 46 – col. 16, line 26].

As to claim 4, Jones discloses the system according to claim 2, wherein the received data is an item identifier useful for querying the database regarding the item [e.g., col. 4, lines 63 – col. 5, line 22].

As to claim 5, Jones discloses the system according to claim 2, wherein the received data are pixel coordinates and the database is further configured to map between the pixel coordinates and an item identifier useful for querying the database [e.g., col. 13, lines 6-21].

As to claim 6, Jones discloses the system according to claim 2, wherein said first and second transmitter are one and the same [e.g., col. 5, lines 46-57, Note: the internet communication used by the prior art makes the system an open system by

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default].

As to claims 7-8, Jones discloses the system according to claim 2, wherein the first and second transmitter is configured to transmit to a personal computer [e.g., col. 5, lines 46 – col. 6, lines 5].

As to claims 9 and 10, Jones discloses the system according to claim 2, wherein the receiver and the second transmitter are configured to operate during operation of the first transmitter and after the first transmitter has substantially completed operation [the claimed features are the nature of Internet communication].

As to claim 11, Jones discloses the system according to claim 2, wherein the database is further configured to store and provide the associated marketing information about the identified item according to at least one of: a name associated with the sequence of images, a grid location of the identified item within an image, a pixel location within an image, a transmission time associated with the sequence of images, a temporal location within the sequence of images, an item type, an item color, an item shape, a measurement of similarity with the item, and a participant within the sequence of images [e.g. col. 13, lines 1-21].

### ***Conclusion***

To expedite the process of re-examination, the examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112) set forth by the Examiner prior to the office action, that applicant should provide and link to the most specific page and line numbers of the disclosure where best support is found (see 35 U.S.C. 132).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 6,297,853 issued to Sharrier et al, which disclosed a system to incorporating advertisements in a video image; U.S. Patent No. 5,765,176 issued to Bloomberg which discloses a document image management system to use an iconic image having embedded encoded information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y Chen whose telephone number is (703) 308-1155. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (703) 308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen  
Examiner  
Art Unit 2171

July 26, 2004



**UYEN LE**  
**PRIMARY EXAMINER**